



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 04891-99
2 March 2000

A 00 [REDACTED] USNR
[REDACTED]
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 21 December 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Since the Board found no defect in the contested performance evaluation, they had no basis to consider your request to correct your record to show you were advanced to petty officer first class. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

4891-99



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
21 DEC 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: AS ~~XXXXXXXXXX~~, USNR (TAR), ~~XXXXXXXXXX~~

Ref: (a) Administrative Board findings of 20 Jun 97
(b) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance report for the period 16 March 1996 to 15 March 1997.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the report in question to be on file. The member signed the report indicating his desire to submit a statement. The member's statement, along with the command's endorsement is on file.

b. The member feels that the comment "Attended Level II CAAC at NAS Alameda 6-23 May 1996. Had alcohol related incident subsequent to treatment (in Government Quarters.)" is unjust due to an administrative board of 20 June 1997 finding him "Not Guilty" of an alcohol related incident.

c. Although reference (a) concluded that the member was not an alcohol rehabilitation failure and that the incident was not alcohol related, these findings do not negate the reporting senior's comments. Reference (b), Annex N, paragraph N-13.a, states "Comments may be included on misconduct whenever the facts are clearly established to the reporting senior's satisfaction".

d. The member does not prove the report to be unjust or in error.

(3) A0

Subj: AS2 [REDACTED], USNR [REDACTED]

3. We recommend retention of the report as written.

[REDACTED]

Head, Performance
Evaluation Branch